United Nations AT/DEC/1202

Administrative Tribunal

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ADMINISTRATIVE TRIBUNAL

Judgement No. 1202

Case No. 1189: KHADER

Against: The Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Julio Barboza, President; Mr. Kevin Haugh, Vice-President; Ms. Jacqueline R. Scott;

Whereas, on 4 July 2003, Ahmed Khader, a former staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter referred to as UNRWA or the Agency), filed an Application in which he requested, in accordance with article 12 of the Statute of the Tribunal, the revision of Judgement No. 1088, rendered by the Tribunal on 25 November 2002;

Whereas the Application contained pleas which read, in relevant part, as follows:

"I. PLEAS

Applicant prays [that] the Tribunal ... :

a. Abrogat[e] the foregoing Judgement;

b. [Consider the] pleas as set out in the original Application."

Whereas at the request of the Respondent, the President of the Tribunal granted an extension of the time limit for filing a Respondent's answer until 28 February 2004 and once thereafter until 31 March;

Whereas the Respondent filed his Answer on 9 March 2004;

Whereas the facts in the case were set forth in Judgement No. 1088;

Whereas the Applicant's principal contentions are:

1. The contested Judgement is inconsistent with common law and sound judgement and overlooks entirely the Applicant's observations dated 21 October 2002 despite their decisiveness in the case.

2. Despite the Applicant's requests for production of certain documents, the Respondent has only released documents on a selective basis.

Whereas the Respondent's principal contention is:

Bearing in mind the standards contained in article 12 of the Tribunal's Statute, the present Application provides no basis upon which Judgement No. 1088 should be revised.

The Tribunal, having deliberated from 27 October to 24 November 2004, now pronounces the following Judgement:

I. The Applicant has presented his case as a request for revision of a Judgement rendered by the Tribunal, namely Judgement No. 1088.

II. A revision case, basically, hinges upon the existence of a "new" fact, i.e., one that was known neither to the party claiming revision nor to the Tribunal at the time the judgement was pronounced. The often cited article 12 of the Tribunal's Statute sets forth the circumstances under which a judgement may be revised, and all those circumstances relate to a "new" fact. Thus, a "new" fact is an inescapable prerequisite for a revision case to succeed.

III. The Applicant, however, has singularly failed to allege or to establish any new fact, let alone one that could be said to be potentially decisive. He wants the judgement in question to be abrogated because of a number of alleged reasons, none of

them being that there existed a fact unknown to the Applicant or to the Tribunal when the Judgement was rendered and of such a nature that, had it been known at that time, would have been a decisive factor for the Tribunal to change its Judgement.

IV. The Application is, therefore, rejected in its entirety.

(*Signatures*)

Julio **Barboza**
President

Kevin **Haugh**
Vice-President

Jacqueline R. **Scott**
Member

New York, 24 November 2004

Maritza **Struyvenberg**
Executive Secretary